IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 295 of 1994

Date of decision : July 25, 2007

Harpal Singh

... Petitioner

versus

State of Punjab

... Respondent

Coram: Hon'ble Mr. Justice A.N. Jindal

Present: Ms. Priya Gupta, Advocate as Amicus Curaie
for the petitioner.

Mr. Anter Singh Brar, DAG, Punjab
for the respondent.

A.N. Jindal, J.

Challenge in this petition is to the order dated 25.4.1994 passed by the learned Additional Sessions Judge, Patiala, whereby the sentence awarded by the Judicial Magistrate Ist Class, Patiala, vide its judgment dated 3.9.1992, was reduced to 1- ½ years under Section 304-A IPC.

The factual matrix of the case is that on 4.3.1988, at about 9/10.00 AM, the petitioner while driving the bus No.PJG-7011 rashly and negligently, came from the side of bus stand Patiala, struck against a bicycle of Sat Pal Singh (deceased) from behind, who was coming from the side of bus stand to Rajindera hospital. The entire occurrence was witnessed by Constable Ajmer Singh (PW3), who was standing at a distance of about 100 yards from the place of occurrence. On his statement, FIR was registered. SI Santokh Singh conduced the investigation; prepared the rough site plan; recorded statements of the witnesses; got the vehicle mechanically examined and on completion of the investigation challan against the petitioner was presented in the Court.

Formal charge under Section 304-A was framed to which the

petitioner pleaded not guilty and claimed trial.

During trial, the prosecution examined Jawahar Singh (PW1), Hira Lal (PW2), C. Ajmer singh (PW3), Wariam Singh (PW4), Dr. Krishan Viz (PW5), Zora Singh (PW6), ASI Devinder Singh (PW7) and SI Santokh Singh (PW8).

The petitioner in his statement under Section 313 Cr.P.C. denied all the incriminating circumstances appearing against him and pleaded his false implication in the case.

Despite the opportunity, no evidence was led in defence.

The element of rashness and negligence on the part of the petitioner has been duly established from the testimony of Ajmer Singh (PW3). He stated that the petitioner while driving the bus No.PJG-7011 hit the cycle of the boy from behind, resultantly the boy was crushed to death and his cycle was damaged. The boy was on the left side of the road. Despite the scorching cross-examination conducted upon this witness, nothing adverse could be elicited so as to impeach his testimony in any manner so as to effect the substratum of the case. There is no denying a fact that the place of accident was very busy road, where there are cinemas and a bus stand on one side. The drivers while driving at such places are expected to take more care and caution of the people and the vehicles going ahead, therefore, a serious obligation was upon the petitioner to act with due diligence and should have been particular about the person moving ahead. Had he taken some precautions then he could avert the accident. The photographs Ex.PW4/8, Ex.PW4/5 to Ex.PW4/7, clearly reflect the fault on the part of the petitioner. The petitioner tried to take shelter from the statement of Zora Singh (PW6). He was not a witness to the occurrence but was examined by the prosecution in order to prove the recovery memo Ex.PW6/A, vide which driving licence and registration certificate were taken into possession by the police on the next day i.e. on 5.3. 1988. Though, he did not volunteer himself to be a witness at the time of investigation or on the date of occurrence, yet, he has alleged that he was present in the bus on that day. From the scrutiny of his statement, his presence at the time of occurrence becomes doubtful. The report Ex.DA is also not proved to be submitted by Zora Singh, as such, no reliance could be placed on his testimony. Ajmer Singh (PW3), who is an independent witness and having least concern with the accused or the relatives of the deceased, would be the last person to depose falsely in

finding fault of the accused for nothing.

As regards quantum of sentence, the petitioner while throwing the traffic norms to the winds took the life of a young boy, which could be averted by him if he had taken some precautions, therefore, to award lessor sentence then that has been awarded by the trial Court would be travesty of justice.

Consequently finding no such irregularity, illegality much less any legal infirmity in the impugned judgment, this revision petition being unmerited is hereby dismissed.

Ms. Priya Gupta, Advocate Amicus Curiae shall claim remuneration from the concerned Legal Authority as per rules.

July 25, 2007 (A.N. Jindal)
deepak Judge

To be referred to the Reporter : Yes/No.